

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
JANUARY 20, 2009
7:06 P.M.**

ROLLCALL Answering rollcall were Members Bennett, Brindle, Housh, Swenson and Mayor Hovland.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Bennett and seconded by Member Housh approving the Council Consent Agenda with the exception of Item 5.C., Resolution No. 2009-12, Calling Public Hearing for Vacation of a Portion of Belmore Lane (02/17/09).

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

***MINUTES - REGULAR MEETING OF JANUARY 6, 2009, AND WORK SESSION OF JANUARY 6, 2009, APPROVED** Motion made by Member Bennett and seconded by Member Housh approving the minutes of the Regular Meeting of January 6, 2009, and Work Session of January 6, 2009.

Motion carried on rollcall vote – five ayes.

PUBLIC HEARING HELD ON APPEAL OF VARIANCE DENIAL – 5349 KELLOGG AVENUE – VARIANCE GRANTED DECISION OF ZONING BOARD OVERTURNED Affidavits of Notice presented and ordered placed on file.

Assistant Planner Presentation

Assistant Planner Aaker presented the appeal of Alyssa and Jon Hammar to the Zoning Board's denial of their .9-foot side yard setback variance and a 219 square-foot lot coverage variance. She displayed a map depicting the location of the home, presented exterior elevations, and a survey illustrating the building footprint and area of the proposed addition to the kitchen area, resulting in the need for the two variances. Ms. Aaker stated the maximum coverage allowed for the lot was 2,250 square feet. The existing structures cover 2,292 square feet, approximately 42 square feet over the allowed maximum. The proposed addition would increase the lot coverage to 2,511 square feet, or 261 square feet over the maximum allowed. The Zoning Board unanimously supported approval of the side yard variance but not all supported the lot coverage variance. Ms. Aaker advised that since two voted in support and two voted against, the variances were denied since there was not a majority to carry the motion. In response to Council's questions, Ms. Aaker explained how lot coverage was calculated and described the two tiers of consideration based on property size. It was noted the current kitchen was small and the interior size could not be increased because of the stairway location that accessed the downstairs.

Proponent Presentation

Jon Hammar, applicant, stated that the Zoning Board was short one member the night their variance was considered, resulting in a two-two tied vote. He explained their galley kitchen was 9 by 15 feet and not large enough to serve their growing family of five. As mentioned, it cannot be expanded into the interior of the home due to the location of stairway and a hallway that exits the home. Mr. Hammar described the home renovation completed by the previous owner that incorporated a decorative portico that was not suitable for living or storage. He explained their consideration to create additional bedrooms as a second story but instead decided to save the front façade and portico. He stated the variance process was available to be a "safety valve" to consider unique situations. He believed their requested variances, if granted, would not alter the essential character of the property or its surroundings since it would maintain a modest single-family home in a similar neighborhood. The proposed kitchen would tuck into an existing notch in the back wall of the home and be barely visible to neighboring homes. Mr. Hammar commented on the nearby larger-sized

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homes that do not fit the character of their neighborhood. He believed that maintaining the single-story roofline was in keeping with the neighborhood.

In response to Council's question regarding the undue hardship test for reasonable use, Mr. Hammar noted they did not change the footprint of the home when the bedrooms were added and the staircase was not changed, which provided the only access to the basement. He stated there was no way to create more interior useable space for their galley kitchen.

Mayor Hovland opened the public hearing at 7:22 p.m.

Public Testimony

Rick Fergesen, 5351 Kellogg Avenue, stated his support for the requested variances.

Scott Libbey, 5341 Kellogg Avenue, spoke in support of the requested variance.

Quin Scott, 5307 Kellogg Avenue, spoke in support of the requested variance. He also stated as a licensed architect his opinion of the request meeting statutory requirements for issuance of a variance.

Member Swenson made a motion, seconded by Member Brindle, to close the public hearing.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

The Council discussed the importance of the lot coverage restriction. Ms. Aaker advised that three lot coverage variances had been issued in this neighborhood, one to conform to City Code for a two-car garage, and another created a cantilevered staircase to a second story addition. She explained the proponent could construct second story but there would be sideyard setback issues if the second story living area extended out to the sidewalls of the first floor. City Attorney Knutson advised that if desired, a condition could be placed on the requested variance to not allow any second story expansion.

Member Swenson stated she would not support the lot coverage variance and expressed reluctance with placing an encumbrance on a property that would restrict a new owner from having a second story. She stated even without the carport, the proponent exceeded the lot coverage restriction.

Member Housh stated he supported the lot coverage variance, feeling the City should when possible allow residents to maintain an existing home or rehabilitate older homes instead of demolishing and rebuilding. He noted the sideyard setback was not significant and agreed the portico should not count as lot coverage. Member Housh pointed out that the home owner could demolish and rebuild a two-story home with more livable space; however, such a home might not fit into the neighborhood.

Member Bennett noted that two of the three variances cited by Assistant Planner Aaker clearly addressed hardship. She stated that she took seriously the recommendations of the Planning Commission, Zoning Board, and staff and that the Zoning Board members who had voted to deny the lot coverage variance also were members of the Planning Commission. She stated that when she has voted against the recommendations of staff, the Planning Commission or Zoning Board, she has done so to limit variance from the zoning code. Member Bennett stated she had viewed the subject house from the front and side and noted there was a larger profile from the side and back. Member Bennett acknowledged that this was a difficult situation and while she understood the constraints with older homes, she would not support the lot coverage variance in this instance.

Member Brindle noted the addition would not extend beyond the north wall and was of a low profile. She felt the addition would not be noticeably different and complimented the designers for creating an addition allowing space for people to be more comfortable yet small enough to not be noticed. Member Brindle stated she would support the variances requested.

Mayor Hovland stated this was the first matter heard post massing ordinance to maintain the integrity of neighborhoods but allowed people to live in a modern way. He indicated the Hammar's proposed addition would maintain the neighborhood's character. Mayor Hovland stated he would vote in support of the variance with the conditions of no building above the carport or change in the roofline for a second story.

Mr. Knutson advised that the Council had the discretion to attach conditions. If approved, the proponent could choose to build with conditions attached or to not build because of the conditions. If the house were torn down, the owner could rebuild without expanding, and a second story would be an expansion.

Member Housh made a motion, seconded by Member Brindle, to grant the requested variances for 5349 Kellogg Avenue overturning the denial by the Zoning Board of Appeals and directing staff to prepare Resolution No. 2009-13 with the necessary findings of fact, and the following conditions: no future building would occur over the carport area, and no change would be allowed in the roofline for a second floor. Resolution No. 2009-13 shall be placed on the Council's Consent Agenda on February 3, 2009.

Rollcall:

Ayes: Brindle, Housh, Hovland

Nays: Bennett, Swenson

Motion carried.

RESOLUTION NO. 2009-14 AND RESOLUTION NO. 2009-17 ADOPTED GRANTING PRELIMINARY DEVELOPMENT PLAN, PRELIMINARY REZONING AND AMENDMENT OF COMPREHENSIVE PLAN – YMCA, 7355 YORK AVENUE Affidavits of Notice presented and ordered placed on file.

Planning Director Presentation

Planning Director Teague presented the two-phased redevelopment of the YMCA site at 7355 York Avenue to construct a new 73,000 square-foot facility and temporary parking area to the south while the existing YMCA remained open. Once the new YMCA was completed, the old facility would be torn down and the rear parking deck and a four-story apartment building constructed. All apartments would be accessible, with universal design, 80th of them would be priced with affordable rents, and 50% would be reserved for tenants with disabilities. The applicant had originally contemplated an eight-story building but given Council direction and Code requirements, the plan was revised to four stories. Mr. Teague advised of the number of variances being requested for setbacks that would be considered by the Zoning Board during the second phase. Mr. Teague said the original application demonstrated adequate parking. He noted the Planning Commission had reviewed the proposal and requested increasing green space, which eliminated eight parking stalls along the east line, bringing the number six below the requirement. The applicant had indicated the parking stalls would be made up with proof of parking. Mr. Teague said a traffic study concluded that 326 parking spaces would provide enough parking for this site. Mr. Teague presented the Comprehensive Guide Plan amendment from Quasi-Public to Mixed Use to allow the residential use and rezoning from R-1, Single-Dwelling Unit District to Mixed Development District 5 (MDD-5). A Conditional Use Permit for private recreational facility and an Overall/Final Development Plan would be needed.

Mr. Teague reviewed the following issues: was the Comprehensive Plan Amendment reasonable for this site, was the MDD-5 Zoning District appropriate for the site, and were the variances justified. He stated staff concluded the proposal was reasonable because the proposed mixture of uses would be compatible within the area; the project would encourage pedestrian movement throughout the development; the project would use sustainable development principles; the City would benefit from a new and improved YMCA facility; the existing roadways would support the project; the proposed affordable housing units would help the City achieve its established goal with the Met Council to provide 212 additional affordable housing units by the year 2030; and, the proposed density of 22

units per acre met the City's Code requirement for density in a MDD-5 Mixed-Use District. Staff believed that MDD-5 was appropriate for the site and the variances were justified and met the three hardship tests. He described the extenuating circumstances with the right-of-way adjacent to the property line to the south and amount of separation from the paved surface to the lot line. In terms of building coverage, 28% would be covered with the YMCA and apartments, and the floor area ratio was 81%. Mr. Teague reviewed the concerns expressed by the Planning Commission and advised it unanimously recommended approval. He stated staff recommended approval of the project subject to the finding that the Guide Plan change was consistent with the adjacent land uses; the apartments were consistent with the multiple family housing developments to the south and west; the Guide Plan change would be consistent with the public health, safety and welfare; the City would benefit from a new and improved YMCA facility and the site would continue with a use consistent with the current Comprehensive Plan designation of Quasi-Public; the affordable housing component would assist in meeting the City's goal of 212 additional affordable housing units by 2030; and the existing roadways would support the proposed project.

Proponent Presentation

Anita Lancello-Bydlon, YMCA Vice President of New Development, explained their mission to improve and change people's lives as they had done for 143 years in the Minneapolis area. She indicated the YMCA's facilities were the tool used to change peoples' lives, and added Edina's current facility was built in 1974, was dated, and inefficient in its use. Ms. Lancello-Bydlon described their partnerships and collaborations with Andover and Elk River building two facilities with the respective cities covering financing, land, and some amenities. She said the Y had developed collaboration with CommonBond and the MS Society, which created synergy to serve and meet individual's needs. She advised that more than \$16 million would be invested in the new facility to serve people of Edina and surrounding communities. She asked for the Council's support as they continue to build strong people in this community.

Greg Hanks, Southdale YMCA Executive Director, stated the Southdale YMCA had been an active and vital organization, by accommodating 40,000 visits in December of 2008. The YMCA had a membership of 14,000 people and also served 15,000 nonmember participants in other programs. He described the different program components and services offered, noting the YMCA was different because it continued to be a community service agency. Mr. Hanks stated this project was a great opportunity to reach out to new people and remain a vital and vibrant part of Edina and surrounding communities.

Greg Fenton, BWB Architects, presented the aerial photographs of the subject site, noting access points and advising there would be 20% more programmable space in the new facility. He described the 130 apartment units proposed by CommonBond and single deck parking structure with direct access to both the YMCA and housing. Mr. Fenton provided an overview of the project phases and advised that sustainable design would be a big component. He stated they would work to address the concerns expressed by the Planning Commission to create a streetscape environment with a visible entry point from York Avenue, develop greater connection from inside to outside, and analyze and enhance pedestrian access. With regard to the variance requests, they had provided graphics to demonstrate the impact of the MDD-5 zoning, noting the project set aside 35% of the site for setbacks. The site was unique with right-of-way dedicated and permanent on the south side and on Xerxes where additional landscaping would be provided. Mr. Fenton noted that the City's setback contradicted developing a streetscape experience on York Avenue. He stated they were not looking to change the classification but believed there were unique aspects of the site, and under the City's PCD-3 zoning district there was language to consider setback exceptions allowing the creation of an active pedestrian environment. The applicant was not requesting decreased setbacks to gain project density. Mr. Fenton stated the YMCA was a vital community asset and would expend greater dollars to stay open during construction to provide programs to the community. He stated that sustainable design and goals would be put into place as the project entered design development. Mr. Fenton displayed a drawing of the first floor elevation, described the level of security it would contain, showed

pictures of the additional landscaping proposed, and presented a computerized aerial-fly around of the site.

Ellen Higgins, CommonBond Development and Acquisition Activities, briefed the Council on their mission, local and regional accomplishments, and collaboration between CommonBond, YMCA and MS Society. Their mission was to build community by building quality and affordable housing as a stepping stone to success to transform lives by providing stable homes with commitment to community. CommonBond had been in business for 38 years, grown to be the largest provider of affordable housing in the Midwest, was committed to owning, operating, and running the housing units, and provided resources to assure residents were successful members of the community. Ms. Higgins described their three housing communities: Yorkdale Townhomes for family housing, Summit Point - a senior housing community, and Southhaven offering affordable apartments for seniors. All units were fully occupied with a long waiting list, which attested to the desirability of Edina and their management. Their primary strategy was to do more collaborative partnerships with agencies like the YMCA and MS Society that better defined services to the community. They had identified a strong need for 100 accessible rental apartments located in the Southdale corridor adjacent to fitness and wellness facilities, public transportation, and metro mobility services. They proposed a four-story building with 130 units: 50% for people with disabilities, 80% affordable, and 20% market rate. Of the affordable units, they proposed designating 20% for those of 30% Median income and another 60% for those making between 50% and 60% of Median Income. Ms. Higgins explained how the development costs of about \$22 million would be financed.

Ms. Higgins advised this would not be subsidized housing but would set rental levels to various income percentages. Residents would be a mix of persons with disabilities, individuals without disabilities, seniors, singles, and households with families because it reflected the reality of the community. The accessible housing was affordable, and CommonBond was working closely with the MS Society and Minnesota Consortium for People with Disabilities. Ms. Higgins stated it was not believed there would be a traffic impact since the targeted rental community used public transportation and Metro Mobility. Ms. Higgins advised that statistics showed their communities did not generate any more crime than what occurred in other communities.

Mayor Hovland opened the public hearing at 8:36 p.m.

Public Testimony

Cindy Leffler, 7401 York Terrace, stated she had no problem with the YMCA proposal but took issue with the proposed housing. She presented pictures showing the unobstructed view from her property as it existed today and demonstrated how her view would be restricted should the apartments be constructed. Ms. Leffler felt a better solution would be to relocate the driveway and locate a smaller complex next to the skate park or on York Avenue. Ms. Leffler expressed concern over traffic, increased crime and potential loss of property value.

Jerry Leffler, 2178 Irving Avenue, Minneapolis, expressed concern over the size of the proposed development and asked questions over how many units were to be for persons with MS since the percentage appeared to have changed. He also indicated traffic concerns especially related to the reopening of the 76th Street Bridge.

Maureen Reeder, President of the National MS Society, described the positive experience the MS Society had in previous projects such as the Kingsley Commons Apartments, working with Common Bond. She urged the Council to favorably consider the proposal.

Tim Brausen, 8301 Virginia Circle North, St. Louis Park, stated he represented Isaiah, an ecumenical organization of about 100 churches in the Metro and St. Cloud region. He also spoke of positive dealings with CommonBond and housing projects and urged the Council to favorably consider the Y's proposal.

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Susan Stellmacher, MS activist, 4550 Humboldt Avenue, Apt 104, Minneapolis, stated she was happy to speak on behalf of people who struggled to find accessible and affordable housing. She explained that in 2006, she had been diagnosed with worsening MS and the MS Society, Minnesota Chapter, and CommonBond had come to her rescue. She currently lived at Kingsley Commons in a two-bedroom apartment that was 100% accessible and safe with a healthcare provider on site 24 hours a day, seven days a week should a resident need help. Ms. Stellmacher stated she hoped the Council would remember people who need affordable and accessible housing and approve this project.

Tamara Webb, 7527 York Avenue South, Yorkdale Townhomes, stated she was a member of the YMCA and a five-year resident. She stated she loves Edina, the closeness of services, and school her daughter attended. Ms. Web stated her support for housing with a mix of families, seniors, and people with MS and the YMCA proposal.

Terry Becker, 5119 Green Farms Road, stated he believed this was a great opportunity for Edina. He noted there had been a lot of talk about partnerships and collaborations and, as Chairman of the Board and member of the Capital Campaign Committee, he knew a lot of partnerships were involved through service organizations like the Rotary, Lions, Optimists, and also corporate gifts, foundation gifts, and personal giving. Mr. Becker stated there was a lot of support in Edina to see this project happen.

John Bohan, 800 Coventry Place, stated he felt the project as proposed was too dense for the site. He felt the test of undue hardship to justify variances under Code was not met. Mr. Bohan noted the Zoning Board had not yet acted on the variance requests. He added he believed the Council should not act on the proposal until the Zoning Board had acted on any necessary variances.

Floyd Grabiell, 4817 Wilford Way, noted that each time the City considered multi-housing proposals, it asked the developer to provide affordable housing, and this application would provide a lot of affordable housing. He stated it was not a perfect proposal, but would be good for the City, the YMCA, and the people who needed affordable housing. Mr. Grabiell stated it was wrong to imply that people who do not have as much money were inclined to be criminals, noting there were many recent examples of the extremely wealthy being indicted for crimes against people. He stated support for the preliminary consideration and asked the Council to favorably consider the project.

Peter Jarvis, 1016 Coventry Place, agreed the variance procedure was awkward but stated he found it to be an ironic twist that the City's setback requirements make 38% of the site nonbuildable because it was bordered by three public rights-of-way. Mr. Jarvis urged the Council to favorably consider the Y's proposal.

Harold Mezile, 5421 Malibu Drive, President of YMCA of Metropolitan Minneapolis, urged the Council's support. He advised Southdale YMCA was the most successful YMCA in the State based on the volume of people served and the size of the budget. Mr. Mezile stated this YMCA served people of all ages and income groups, reached out to youth, and those with special needs. He described the exceptional next-generation YMCAs that had been constructed in other communities and stated that Edina deserved an outstanding YMCA to serve people on a continuous basis. Mr. Mezile stated the addition of CommonBond made it a fabulous and unique project and a model for the future to serve people with all kinds of needs. He urged the Council to approve this unique proposal.

Member Housh made a motion, seconded by Member Swenson, to close the public hearing.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

In response to Council's questions, Mr. Teague advised that a re-zoning to MDD-5 was the applicant's request and staff felt it an appropriate zoning designation for a minimum lot size being five acres to address infill of smaller sites. The Council addressed the sequencing of variance consideration occurring after the Council's consideration of the preliminary application. Mr. Teague explained that

features of the project change between preliminary and final approval. If variances were approved at the preliminary stage, the building location and height would be locked in without flexibility. In addition, if the Council does not approve the preliminary application, there was no need for the Zoning Board to consider variances.

The Council's discussion included: that the density of 22 units per acre was in keeping with other area densities and was within the Code requirements, the Code limitation of four stories, the need to address the safety of left-turn movements from the north access point onto York Avenue, the number of units that will be designed for people with disabilities and the number of units that will be set aside for them, and the need for a firmer commitment beyond a "target" or "goal" that at least 50% of the units would be rented to persons or families with disabilities. Ms. Higgins explained the goal of CommonBond was to keep it at 50% or more. However, in financing negotiations with equity investors, national syndicators buy the credits and always use the "what if" scenario; i.e., if there were no people with disabilities needing an apartment, the apartment would be left open. They need to consider underwriting the worst risk scenario. The Council indicated it had a keen interest in providing affordable senior housing, which Ms. Robinson had testified was a targeted group. Ms. Higgins assured the Council they would work to provide a firmer commitment and the Council's comments may give them negotiating "ammunition" when talking to investors, that communities were requesting it of them.

The Council referenced the number of police calls, HUD housing restrictions, and questioned the renter screening process used by CommonBond. Ms Higgins stated the process was fairly uniform throughout their 107 communities. They followed a strict process for infraction of leases and eviction if there was no way to stabilize the family. There was no automatic eviction because their Advantage Service component provided a more compassionate review from service providers to examine what was happening and work with the property managers to understand the circumstances. However, the safety of residents and stability of the housing trumped all else. Ms. Higgins stated that as at Kinglesy Commons, a healthcare provider would be available on site 24 hours a day, seven days a week, and they would work with the MS Society and residents to identify the appropriate caregiver.

The Council addressed aspects of the YMCA's building design including the connection to the outside, need for building security, safety in the aquatic center, safety of people arriving from the bus stop who must walk around the building to the entrance, need for an entrance from York Avenue, and that the lower level does not have an elevator to gain access to the main lobby. Mr. Fenton explained that accessibility codes would not require an elevator in that location but the design had not reached that level of detail with the schematics. The Council reviewed the location of interior doors, outside access points for those arriving on foot, and use of interior spaces. Mr. Fenton acknowledged this issue would need to be reviewed further.

The Council next addressed on-site circulation and noted several locations of conflicting vehicle and pedestrian movements. Mr. Fenton used the site plan to identify the location of the two-directional drop-off area and described the counterclockwise and clockwise circulation to leave the site or park in the deck. The main level of the apartments and YMCA were on the same elevation. With regard to pedestrians crossing two-way traffic to gain access to the YMCA, Mr. Fenton stated it was a 24-foot narrow two-directional lane, similar to shopping centers. He advised that Hennepin County had studied the existing conditions, traffic study, and on-site circulation and indicated it would be an improvement because the new site plan would provide on-site stacking space. In response to Council's questions on the number of surface parking spaces, Mr. Fenton stated the surface parking as well as the upper deck was unassigned and available to both residents and users of the YMCA.

Member Housh introduced Resolution No. 2009-14, Approving a Guide Plan Amendment from Quasi-Public to Mixed Use for the YMCA at 7355 York Avenue, and Resolution No. 2009-17, Approving a Preliminary Rezoning and Preliminary Development Plan for the YMCA site at 7355 York Avenue, with the following findings:

- 1. The guide plan change is consistent with the adjacent land uses.**

2. The apartments are consistent with the multiple family housing developments to the south and west.
3. The guide plan change would be consistent with the public health, safety and welfare.
4. The City would benefit from a new and improved YMCA facility, and the site would continue with a use consistent with the current Comprehensive Plan designation of Quasi-Public.
5. The affordable housing component would assist in meeting the City's goal of 212 additional affordable housing units by 2030.
6. The existing roadways would support the proposed project.

Approvals subject to the following conditions:

1. The Final Development Plan must be generally consistent with approved Preliminary Development Plans dated August 29, 2008 and December 5, 2008.
2. Sustainable design - the design and construction of the entire project must be done with the Sustainable Initiatives as outlined in the applicant's narrative on page A11 of the staff report.
3. Trail and sidewalk connections must be included as demonstrated on the preliminary plans.
4. All traffic mitigation measures as required by the Transportation Commission and traffic study must be followed.
5. All buildings must be built with sprinkler systems, subject to review and approval of the fire marshal.
6. The temporary parking lot on the park property must be paved and meet all minimum requirements of the City Engineer.
7. The temporary parking lot shall be reviewed by the City Park Board during the Final Development Plan process. The applicant would be responsible to construct the temporary lot and restore the park back to its original condition at the applicant's cost.
8. Compliance with all of the conditions outlined in the City Engineer's memo dated September 24, 2008.
9. The design must be modified to address York Avenue, to meet the spirit of the ordinance which encourages a project to create a more active pedestrian involvement with the street.

Member Swenson seconded the motion.

The Council discussion included: the need for the applicant to address the concerns raised by the Planning Commission in October, function as well as appearance, how to better engage the street for an entrance from York Avenue at the northwest corner, serious on-site circulation issues, ingress and egress issues, strengthening the percentage of housing for persons with disabilities, and whether the option had been considered to locate residential on the north rather than the south.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2009-15 ADOPTED GRANTING FINAL DEVELOPMENT PLAN AMENDMENT AND VARIANCE – TWIN CITIES ORTHOPEDICS, 4010 65TH STREET WEST Affidavits of Notice presented and ordered placed on file.

Planning Director Presentation

Mr. Teague stated the final development plan had been approved about six months ago and the applicant was now requesting an amendment to make the following changes: enlarge the drive entrance on the east side of the building to allow easier and safer turning area into the building (required a ten foot variance on both this property and Fairview Southdale parking ramp to the east), revise landscaping along the north lot line with trees planted in the Mn/DOT right-of-way to avoid underground utility lines, revised the storm water storage system, increased the parking ramp stair

tower height by two feet two inches to accommodate structural clearances, and revise the building material from architectural precast to brick on the fourth level. Staff appealed the Zoning Board recommendation for approval so the Council could take action on all of the items. A hardship was found due to the odd shape of the lot and narrow west side, the high water table preventing underground parking, and it was felt the building was reasonably sized meeting the intent. The Planning Commission recommended approval of the amended site plan and the Zoning Board approved the variances.

The Council discussed concern with the longevity of evergreen trees when planted along a highway and whether the applicant could be charged with the responsibility of periodic inspection. Public Works Director Houle advised of Mn/DOT's cooperative landscape program and that the evergreen trees planted adjacent to Tracy Avenue have survived.

Proponent Presentation

Mark Hansen, Mohagen and Hansen Architectural Group, described the challenges this project had presented and five issues under consideration. He advised that the owner had negotiated a land lease with Twin City Orthopedic and Fairview Hospital to allow for easier access. Mr. Hansen presented a diagram showing a truck turning radius from 56th Street and described how deliveries would be made, creating more safety for vehicles and pedestrians. With regard to landscaping, during development of the project concerns were raised with the underground utilities along the north property line. Because the building had been pushed to the north to provide additional landscaping space along 56th Street, they developed an easement to bury utilities and reached agreement with Mn/DOT to develop a landscaping area on their right-of-way. Due to the structural capacity of the slab, changes were made to the storm water management system. Mr. Hansen described how the new system would operate in a similar manner, noting it would still have the same result and harvest water for the irrigation system. He explained that due to the depth of the beams, a portion of the stair tower on the west side was raised but the center portion of the building was lowered by one foot. Mr. Hansen displayed a drawing of the exterior elevation and noted the area on the penthouse where brick would replace architectural precast.

The Council questioned the bank of windows in the stairwell tower. Mr. Hansen advised the windows were a screening element for the antennas. With regard to the loss of 1600 feet of green space, Mr. Hansen advised there was no other opportunity to create additional green space on the site. Mr. Houle stated staff had reviewed the change in the stormwater management system and were working with the Watershed District and Barr Engineering to assure it met the City's requirements. The Council questioned the height of the stairwell. Mr. Hansen explained the stair tower on the west side was at 58 feet 8 inches and would be modified to 60 feet 6 inches. The highest point was in the middle of the structure at 82 feet 8 inches. He advised they have received a letter from the Nine Mile Watershed District indicating this concept satisfied their requirements.

Mayor Hovland opened the public hearing at 10:26 p.m.

Public Testimony

No one appeared to comment.

Member Swenson made a motion, seconded by Member Bennett, to close the public hearing.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

Member Swenson introduced Resolution No. 2009-15, Approving an Amended Final Development Plan with Variances for Twin Cities Orthopedics and Southdale Fairview Hospital, 4010 65th Street West, with the following findings:

- 1. The amendments do not add any finished square footage to the previously approved plans.**
- 2. The proposed changes to the plan are minimal.**

Approval of the drive aisle sideyard setback variances from ten feet to zero feet at 4010 65th Street West and 6400 France are based on the following findings:

- 1. There is a unique hardship to the property caused by the size of the approved building on the site, the shape and limited depth of the lot, especially the western half of the site.**
- 2. The site's high water table prevented the parking from being constructed under ground.**
- 3. The site's location is adjacent to Crosstown Highway 62.**
- 4. The revised driveway would provide a safe and easy turning radius for delivery trucks driving into the loading area.**
- 5. The intent of the ordinance is to provide separation and green space between lots and uses. This site is unique in that it is part of the Regional Medical District, and there would be a pedestrian connection between the parking ramp for the hospital, and the new building. The appearance would be that these uses function together.**

Approval of the Amended Final Development Plan and variances were subject to the following conditions:

- 1. The site must be developed and maintained in conformance with the previously approved final development plan unless modified below, the plans listed below and the conditions below:**
 - Site plan date stamped November 26, 2008.**
 - Grading plan date stamped November 26, 2008.**
 - Landscaping plan date stamped November 26, 2008.**
 - Building elevations date stamped November 26, 2008.**
- 2. The following must be submitted to the City before the City issues a building permit:**
 - a. A final landscape plan for staff approval.**
 - b. A copy of the recorded resolution with the County.**
- 3. The property owner is responsible for replacing any required landscaping that dies.**
- 4. Submit a copy of the Nine Mile Creek Watershed District permit. The City may require revisions to the approved plans to meet the district's requirements.**
- 5. An executed cross access easement must be submitted prior to issuance of a certificate of occupancy for the new building.**
- 6. Revised building material from architectural precast to brick on the fourth level, as presented to the Council on January 20, 2009.**

Member Housh seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

***PUBLIC HEARING CONTINUED TO FEBRUARY 3, 2009 – FINAL SITE PLAN – ALOFT HOTEL/WAYZATA PROPERTIES, 5701 NORMANDALE ROAD** Affidavits of Notice presented and ordered placed on file.

Motion made by Member Bennett and seconded by Member Housh continuing the public hearing to February 3, 2009 for the final site plan for Aloft Hotel / Wayzata Properties, 5701 Normandale Road.

Motion carried on rollcall vote – five ayes.

PUBLIC COMMENT

Diane Plunkett Latham, 7013 Comanche Court, noted that several proposals had been considered at the last Council meeting for interviewing Commissions and Board applicants. She described what she found to be the advantages and disadvantages of the two interview formats previously considered: interview by the full Council, and interview by the Mayor and Chair. Ms. Plunkett Latham proposed a hybrid format with the Commission or Board conducting the first round of interviews and recommending two individuals per opening for Council's consideration. At least three of the Council

would interview the recommended candidates, triggering the Open Meeting Law and assuring transparency.

***AWARD OF BID – 15 IN-SQUAD VIDEO SYSTEMS – POLICE DEPARTMENT** Motion made by Member Bennett and seconded by Member Housh awarding the bid for 15 in-squad video systems to the recommended low bidder, Action Fleet, Inc. (ICOP System) at \$95,595.00.

Motion carried on rollcall vote – five ayes.

***AWARD OF BID – TORO GROUNDSMASTER 4500-D ROTARY MOWER – BRAEMAR GOLF COURSE** Motion made by Member Bennett and seconded by Member Housh awarding the bid for Toro Groundsmaster 4500-D rotary mower for Braemar Golf Course to the recommended low bidder, MTI Distributing at \$37,535.69.

Motion carried on rollcall vote – five ayes.

***AWARD OF BID – EDINBOROUGH PARK AIR HANDLING REPLACEMENT** Motion was made by Member Bennett and seconded by Member Housh awarding the bid for air handling replacement for Edinborough Park to the recommended low bidder, Master Mechanical at \$356,700.00.

Motion carried on rollcall vote – five ayes.

ORDINANCE NO. 2009-1 ADOPTED – AMENDING UTILITY RATES Mark Ruff, Ehlers & Associates, noted the Council annually reviewed water and sewer utility rates and looked at the future of enterprise funds. In 2006, it was clear that several major capital improvements were necessary and rate increases were needed. It was also clear that the DNR was encouraging cities to find ways to promote conservation of water, particularly in the summer time. As a result, the Council adopted rate tiers to charge more per gallon of water as usage increased. In the past, the City looked at projecting revenues and expenses for debt service and debt costs out 10 to 15 years to determine if plans for capital improvements were moving in the correct direction and rates were correctly laid out. Mr. Ruff advised that rate increases proposed for 2009 were 6.4% increase for water, 4.5% increase for sanitary sewer, and 8% increase for storm sewer costs, or 5.5% increase for the combination of those services.

Mr. Ruff presented the issues that were driving the increase in rates including Metropolitan Council's sewer treatment rates and the City's significant capital improvement projects for street reconstruction, replacing water pipes, need to upgrade water treatment facilities, and equipment. The creation of a tiered rate structure was intended to promote conservation and to assure City expenses were supported by revenues. The Council had expressed concern with covering most of the capital costs with debt, which occurred mainly because the City had not developed significant reserves to pay for capital items. Historically, Edina had very low water rates and used reserves instead of debt to pay for costs. Mr. Ruff advised that if the water rate was increased 7% per year instead of 6.4% it would result in \$1 million less per year in borrowing. Another option was to move commercial users into the third tier, which would result in a 50% increase of their water rates. Commercial users were a relatively small, 10-15%, part of the City's total usage, and an increase to the third tier would result in about \$1 million per year. However, because of the high percentage of increase to that one sector, they do not recommend that option. If approved, they would recommend commercial users be given advanced notice of a year or longer so it could be accommodated into their budgets. Mr. Ruff advised that when compared to other municipalities, Edina's 2008 rates were in the middle to low middle range.

Finance Director Wallin presented staff's analysis of water rates for Morningside, which was connected to the Minneapolis water system. Edina owns and maintains all water infrastructures (watermains and meters) in the Morningside area, and Minneapolis charged \$2.84 per 100 cubic feet in 2008. He advised of the revenues received from Morningside and the administrative costs and expenses. Finance Director Wallin presented the assumptions used for infrastructure costs, cost to replace water meters and maintain watermains, and determination that the estimated costs were

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greater than the estimated revenues by \$14,145 per year. Thus, it would require an increase in the consumption charge of up to 21 cents per 100 cubic feet of usage to offset costs. It was noted this increase was smaller by percentage than the water rate increases the rest of Edina had experienced since 2007. Finance Director Wallin noted Edina buys more water from Minneapolis than it sold. However, this was left out of analysis, because for the last few years Edina had done more hydrant flushes to clean up the brown water issue.

The Council discussion included: Need for additional analysis of the history and cost of water utility capital projects and the relative percentage of capital costs related to the system components shared citywide, i.e. water mains and water meters. Finance Director Wallin stated some water mains have involved additional costs so each specific project would have to be looked at to assure an apples-to-apples comparison. Council indicated staff's analysis to support the fees and charges was well done and it was important to be able to justify to Morningside residents that they were fairly charged for their contribution to the City's capital costs, considering Council assurance with the approval of the water main relining project that project costs would not be passed on to the neighborhood. Staff was asked if Morningside residents would have been assessed for physical improvements. Finance Director Wallin explained utilities were assessed when a neighborhood was first developed. However, typically repairs to the system were part of the usage charge. He advised that approximately one-third of the Edina water usage charge was directed to Edina's water infrastructure, compared with \$.02 of the Morningside water usage charge. Council noted that according to staff's analysis, the fixed rate charge paid by Morningside and Edina water customers covered the City's administrative costs in full, leaving approximately two-thirds of each fixed rate charge to be applied to the City's capital expenses. Council requested that staff return at its convenience with an analysis of water utility capital projects costs and the percentage of those costs related to water mains and water meters., and stated that water rates for Morningside would be amended after Council reviewed the additional information.

Member Housh made a motion to grant First and waive Second Reading adopting Ordinance No. 2009-1, Amending Utility Rates deleting #2 under Water Service and renumbering #3, #4 & #4 to #2, #3 & #4. Member Bennett seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2009-11 APPROVED ACCEPTING VARIOUS DONATIONS Mayor Hovland explained that in order to comply with State Statutes; all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations. **Member Swenson and Member Bennett seconded a motion adopting Resolution No. 2009-11 accepting various donations.**

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2009-12 ADOPTED – CALLING PUBLIC HEARING FOR VACATION OF A PORTION OF BELMORE LANE ON FEBRUARY 17, 2009 The Council questioned the timeliness for setting this public hearing since the architectural plans were not yet definite. Manager Hughes explained that consideration of a vacation had a longer notice requirement. The intent of scheduling the public hearing for February 17 was to track with the CUP public hearing so both issues could be heard at the same time. If the CUP was not ready to be heard, staff would recommend holding over this public hearing to a later date. **Member Bennett introduced Resolution No. 2009-12, Calling Public Hearing for Vacation of a Portion of Belmore Lane on February 17, 2009.** Member Swenson seconded the motion.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

VOLUNTEER RECOGNITION RECEPTION DATE SET Mr. Hughes presented the available dates. Following discussion, **Member Swenson made a motion, seconded by Member Bennett, to schedule the Volunteer Recognition Reception on Wednesday, April 22, 2009, at 5:00 p.m. at Edinborough Park.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland
Motion carried.

ANNUAL MEETING DATE DISCUSSED Following discussion, Mr. Hughes stated he would circulate an e-mail of available dates for Council's consideration.

***RESOLUTION NO. 2009-16 APPROVED – APPROVING HENNEPIN COUNTY ELECTRONIC PROPRIETARY DATA BASE (EPDB) CONDITIONAL USE LICENSE AGREEMENT** Motion made by Member Bennett and seconded by Member Housh to adopt Resolution No. 2009-16, Approving Hennepin County Electronic Proprietary Data Base (EPDB) Conditional Use License Agreement.

Motion carried on rollcall vote – five ayes.

GATEWAY DEVELOPMENT AGREEMENT APPROVED Mr. Teague stated the Gateway Development Agreement was ready for consideration. The Council discussed the cost for the bike trail and questioned the wording of the agreement indicating: "may apply." Public Works Director Houle advised the cost for the trail was not known since a preliminary trail study had not yet been conducted. City Attorney Knutson advised the wording of the agreement was correct as written since the term "may apply" gave them permission to proceed. **Member Housh made a motion, seconded by Mayor Hovland, to approve the Gateway Development Agreement.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland
Motion carried.

***CONFIRMATION OF CLAIMS PAID** Motion made by Member Bennett and seconded by Member Housh approving payment of the following claims as shown in detail on the Check Register dated January 8, 2009, and consisting of 21 pages: General Fund \$396,404.57; CDBG Fund \$6,967.26; Communications Fund \$6,298.13; Working Capital Fund \$597.60; Art Center Fund \$1,929.02; Golf Dome Fund \$2,203.33; Aquatic Center Fund \$539.00; Golf Course Fund \$11,731.08; Ice Arena Fund \$11,488.42; Edinborough/Centennial Lakes Fund \$19,487.91; Liquor Fund \$197,308.48; Utility Fund \$10,366.04; PSTF Agency Fund \$9,188.79; **TOTAL \$674,439.63** and for approval of payment of claims dated January 15, 2009, and consisting of 32 pages: General Fund \$385,992.64; Communications Fund \$11,774.99; Working Capital Fund \$32,572.14; Construction Fund \$55,465.82; Art Center Fund \$342.55; Aquatic Center Fund \$290.18; Golf Course Fund \$8,628.52; Ice Arena Fund \$3,874.92; Edinborough/Centennial Lakes Fund \$222,772.25; Liquor Fund \$297,769.44; Utility Fund \$409,744.79; Storm Sewer \$1,808.98; Recycling Fund \$35,380.00; PSTF Agency Fund \$2,215.95; **TOTAL \$1,468,633.17,** and Credit Card Transactions dated November 26, 2008 to December 26, 2008; **TOTAL \$5,023.57.**

Motion carried on rollcall vote – five ayes.

CAPITAL IMPROVEMENT PROGRAM 2009-2013 APPROVED Mr. Hughes stated the Capital Improvement Program was in final form and staff recommended approval. **Member Bennett made a motion, seconded by Member Swenson, to approve the Capital Improvement Program for 2009-2013.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland
Motion carried.

RESOLUTION NO. 2009-21 ORDERING FEASIBILITY STUDY OF SIDEWALKS ON SEGMENTS VALLEY VIEW ROAD & NORMANDALE ROAD Following discussion, Member Swenson introduced Resolution No. 2009-21, Directing staff to study the feasibility of sidewalks on

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Valley View Road from Concord Avenue to Normandale Road and on Normandale Road from Valley View Road to Benton Avenue. Member Bennett seconded the motion.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

TOWN HALL MEETING FORMAT DISCUSSED The Council discussed and agreed on the format to be used at the January 27, 2009 Town Hall meeting that would start at 11:30 a.m.

PLANNING COMMISSION JOINT MEETING SCHEDULED The Council discussed and asked staff to schedule time to meet with the Planning Commission on February 3, 2009, at 5:30 p.m.

WEST 70th STREET STUDY AND PUBLIC HEARING SCHEDULED The Council agreed to schedule a presentation on the West 70th Street Study on February 3, 2009, and directed staff to schedule the West 70th Street public hearing for the February 17, 2009, meeting. It was agreed to provide public hearing notice through a press release and a mailed notice to the survey area.

BOARD & ATTENDANCE REQUIREMENT DISCUSSED The Council discussed that some members of advisory boards and commissions were not in compliance with the City's Code on attendance at meetings. It was noted two groups were experiencing difficulty obtaining a quorum. Consensus was that no change be made to the Code and staff should continue notification to any members out of compliance.

BOARD & COMMISSION INTERVIEW PROCESS DISCUSSED Mayor Hovland advised of the feedback received since the last meeting regarding the interview process to fill Commission and Board vacancies. It was indicated the interview schedule could be advertised on the City's website and at City Hall. Council consensus was reached that the Mayor and Chair would conduct interviews along with one Member who had served on that Commission, as follows: Member Swenson – Heritage Preservation Board, Zoning Board of Appeals, Construction Board of Appeals; Member Bennett – Transportation Commission and Planning Commission; Member Housh – Park Board and Energy and Environment Commission; and, Member Brindle – Human Rights & Relations and Community Health Committee

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 12:15 a.m.

Respectfully submitted,

Debra A. Mangen, City Clerk